

The

IOWA STATE BAR ASSOCIATION



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TO: House and Senate Justice Appropriations Committee
FROM: Jim Carney and Dwight Dinkla
RE: SF 2283, HSB 665 and SF 2267
DATE: 3-7-02

The Iowa State Bar Association has adopted the following positions on the above legislation and other related legislation affecting the courts:

1. The ISBA supports full funding of the court's budget. (SSB 3097 and HSB 628)
2. The ISBA supports an increase in filing fees to ensure full funding of the court's budget and to avoid any further cuts. Filing fees should be raised only to ensure full appropriations of the courts budget. See attached materials.
3. The ISBA supports an in depth study of the clerks of district court including the effective utilization of clerks and assessment of functions and duties to be performed by clerks. See section 63 of SF 2283.
4. The ISBA supports a full-time clerk of court's office in every county.
5. In regard to SF 2283, the ISBA supports the modifications and suggested changes in the Judicial Branch with a couple of exceptions. See the attached amendment which strikes the delay in appointing judges when there is a vacancy and restores the language providing that the district judges within the judicial district shall appoint juvenile officers.
6. The ISBA does have concerns about the current drafting of Section 2 of SF 2283 regarding the over-exclusion of persons from consideration in the nominating process.
7. The ISBA opposes SF 2267 regarding redistricting in its current form and strongly believes that the legislature is constitutionally bound to approve judicial redistricting. There should be a process to require the Supreme Court to consult with a variety of stakeholders in formulating a redistricting plan.

Thank you for the opportunity to address the committee.

ISBA SUGGESTED AMENDMENTS

AMENDMENT TO SF 2283

Amend SF 2283 as follows:

Page 1, line 7, by striking the words "unless the Chief Justice has ordered" and striking lines 8 through line 10, up to the word "reasons."

Strikes the delay in appointing judges when there is a vacancy

Page 16 by striking lines 33 to 35.

Restores district court judges appointing juvenile officer and not the chief judge

Page 17, line 1 by striking the word "Chief Judge of the Judicial District" and re-inserting the words "majority vote".

Restores district court judges appointing

Page 19, line 27 by striking the words "unless the Chief Justice"

Strikes delay in appointments

Page 19, by striking lines 28 through 31.

Strikes delay in appointments

Page 20, line 6 by striking the words "unless the Chief Justice has"

Strikes delay in appointments

Page 20, by striking lines 7 through 10.

Strikes delay in appointments

Page 23, line 21, by striking the words "the Chief".

Strikes delay in appointing probate judge

Page 23, by striking lines 22 through 24.

Same as above

AMENDMENT TO SF 2283

Page 29, Line 15 by inserting after the word "personnel" the following: "The Iowa State Bar Association and Iowa State Association of Counties"

Adds Bar and ISAC to study committee

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TO:

Mary Kramer
President of the Senate

Brent Siegrist
Speaker of the House

Stew Iverson
Senate Majority Leader

Christopher Rants
Majority Leader of the House

Michael Gronstal
Minority Leader of the Senate

Dick Myers
Minority Leader of the House

FROM: Jim Carney
RE: SF 2267 and HSB 673 - Reorganization of Judicial Districts
DATE: March 3, 2002

SF 2267 and HSB 673 are the Judicial Branch proposals on reorganization of judicial districts. The ISBA opposes both bills in their current form. The ISBA is rarely in disagreement with the Supreme Court, but this is one of those rare occasions. It is the position of the ISBA that the determination of the court district boundaries for service delivery and/or trial center locations constitutes a political decision that should be left to the elected representatives in the legislature. Pursuant to the Constitutional requirement of separation of powers, the legislature cannot and should not delegate its Constitutional duty to make such geographic and political determinations. We have attached copies of various sections of the Constitution of Iowa which indicate that redistricting will take place by legislative action rather than legislative inaction.

The ISBA recognizes the judicial branch needs to be accorded great deference in the process of determining judicial districts, but the reorganization itself should be a legislative decision, not a judicial decision. This position is consistent with the framework of allocation of powers established by the Constitution of Iowa. The ISBA believes there is an alternative approach which accords deference to the Judicial Branch, but ensures the legislature does not abrogate their duties. SF 2267 should be amended to require the Supreme Court to consult with the Judicial Council, the Iowa State Bar Association and the Iowa State Association of Counties to develop and submit a redistricting plan to the General Assembly. In the attached proposed amendment, we

Iowa State Bar Association

March 4, 2002

Page 2 of 2

have not changed the submission date of January 15th. The legislature would then consider the plan and decide whether to enact the plan. As currently drafted, SF 2267 would allow the plan to become effective without legislative action or the Governor's approval.

The legislature may want to consider requiring the Judicial Branch to submit a reorganization plan in the summer or fall before the legislative session. This would ensure that public study and comment could take place before the legislative session convenes. This would also avoid the type of criticism the court has endured this year. The second step would be for the Judicial Branch to then file the final plan with the General Assembly by January 15, as currently provided in the bill for legislative approval.

Another alternative would be to require that any plan submitted to the legislature be the product of a statutorily constituted committee. The plan would be reviewed and passed on by the Supreme Court. The committee would be composed of members of the Supreme Court, Court of Appeals, Court Administrators, District Court Judges appointed by the Iowa Judges' Association, lawyers appointed by the ISBA and local government representatives appointed by ISAC, as well as legislative representatives from the House and Senate Judiciary Committees. The use of such a committee would allow expanded public input and comment which would again help avoid criticism of the Judicial Branch at a later date. It should be noted that the Judicial Branch currently has the power to reassign judicial officers and court employees from one judicial district to another in order to handle the judicial business in all districts efficiently and promptly. See attached Iowa Code §602.6108.

JWC/scc
enclosures

cc: House and Senate Judiciary Members
House and Senate Justice Appropriations Members

basicmem\sf 2267-hsb673 leadership mem.doc

Text: SF02266

Text: SF02268

Text: SF02200 - SF02299

Text: SF Index

Bills and Amendments: General Index

Bill History: General Index

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Senate File 2267

Partial Bill History

- Bill Introduced: S.J. 357
- Committee Report Issued: S.J. 364
- Complete Bill History

Bill Text

PAG LIN

1 1 Section 1. Section 602.6107, Code 2001, is amended by
 1 2 striking the section and inserting in lieu thereof the
 1 3 following:

Proposed Amendment

1 4 602.6107 REORGANIZATION OF JUDICIAL DISTRICTS.

1 5 1. The supreme court may from time to time review the
 1 6 division of the state into judicial districts in order to
 1 7 determine whether the composition of the judicial districts is
 1 8 the most efficient and effective administration of the
 1 9 district court and the judicial branch.

1 10 2. If the supreme court determines that the administration
 1 11 of the district court and the judicial branch would be made
 1 12 more efficient and effective by reorganizing the judicial
 1 13 districts, the supreme court ~~shall develop and submit to the~~
 1 14 ~~general assembly by January 15 a plan which reorganizes the~~
 1 15 ~~judicial districts. The plan shall take effect, by order of~~
 1 16 ~~the supreme court, on July 1 following submission of the plan,~~
 1 17 ~~unless the general assembly enacts legislation, which is~~
 1 18 ~~approved by the governor, reorganizing the judicial districts.~~

in consultation with
 the Judicial Council,
 The Iowa State Bar
 Association and the
 Iowa State Associatio
 of Counties shall
~~develop and submit to~~
~~the general assembly~~
 by January 15 a plan
 which reorganizes the
 judicial districts.

1 19 3. The composition of the judicial districts in section
 1 20 602.6107, Code 2001, and judicial election districts in
 1 21 ~~section 602.6109, Code 2001, shall remain in effect until the~~
 1 22 ~~division of the state into judicial districts and judicial~~
 1 23 ~~election districts is modified pursuant to this section.~~

1 24 Sec. 2. Section 602.6109, Code 2001, is amended by
 1 25 striking the section and inserting in lieu thereof the
 1 26 following:

1 27 602.6109 JUDICIAL ELECTION DISTRICTS AND JUDGESHIPS.

1 28 1. The reorganized judicial districts established pursuant
 1 29 to section 602.6107 shall serve as judicial election districts
 1 30 for purposes of nomination, appointment, and retention of
 1 31 judges of the district court.

1 32 2. If the judicial districts are reorganized under section
 1 33 602.6107, the state court administrator shall reapportion the
 1 34 number of judgeships to which each judicial election district
 1 35 is entitled. The reapportionment shall be determined
 2 1 according to section 602.6201, subsection 3.

EXPLANATION

2 2
 2 3 This bill relates to reorganizing judicial districts and
 2 4 judicial election districts.

2 5 The bill provides that the supreme court may from time to
 2 6 time review the division of the state into judicial districts
 2 7 in order to determine whether the current composition of the
 2 8 judicial districts is the most efficient and effective
 2 9 administration of the district court and the judicial branch.
 2 10 The bill provides that the supreme court shall submit a plan
 2 11 reorganizing the judicial districts to the general assembly by
 2 12 January 15 of any year the court desires to reorganize the
 2 13 districts. The plan contained in the bill shall take effect,

Article III

Nullification of administrative rules. SEC. 40. The general assembly may nullify an adopted administrative rule of a state agency by the passage of a resolution by a majority of all of the members of each house of the general assembly.

Article V

Jurisdiction of supreme court. SEC. 4. The supreme court shall have appellate jurisdiction only in cases in chancery, and shall constitute a court for the correction of errors at law, under such restrictions as the general assembly may, by law, prescribe; and shall have power to issue all writs and process necessary to secure justice to parties, and shall exercise a supervisory and administrative control over all inferior judicial tribunals throughout the state

Judicial districts. SEC. 10. [* * *]* The general assembly may reorganize the judicial districts and increase or diminish the number of districts, or the number of judges of the said court, and may increase the number of judges of the supreme court; but such increase or diminution shall not be more than one district, or one judge of either court, at any one session; and no reorganization of the districts, or diminution of the number of judges, shall have the effect of removing a judge from office. Such reorganization of the districts, or any change in the boundaries thereof, or increase or diminution of the number of judges, shall take place every four years thereafter, if necessary, and at no other time.

At any regular session of the general assembly the state may be divided into the necessary judicial districts for district court purposes, or the said districts may be reorganized and the number of the districts and the judges of said courts increased or diminished; but no reorganization of the districts or diminution of the judges shall have the effect of removing a judge from office.

Paragraph 2 added 1884, Amendment [8]. Much of paragraph 1 apparently superseded by paragraph 2

*Certain provisions, apparently superseded or obsolete, have been omitted from this codified Constitution. See original Constitution for omitted language

System of court practice. SEC. 14. It shall be the duty of the general assembly to provide for the carrying into effect of this article, and to provide for a general system of practice in all the courts of this state

any schedule changes shall be disseminated by the chief judge to the peace officers within the district.

83 Acts, ch 186, §7105, 10201; 92 Acts, ch 1164, §4

602.6106 Sessions not at county seats — effect — duty of clerk.

When court is held at a place that is not the county seat, all of the provisions of the Code relating to district courts are applicable, except as follows: All proceedings in the court have, within the territory over which the court has jurisdiction, the same force and effect as though ordered in the court at the county seat, but transcripts of judgments and decrees, levies of writs of attachment upon real estate, mechanics' liens, lis pendens, sales of real estate, redemption, satisfaction of judgments and mechanics' liens, and dismissals or decrees in lis pendens, together with all other matters affecting titles to real estate, shall be certified by the clerk's designee to the clerk of district court at the county seat who shall immediately enter them upon the records at the county seat.

83 Acts, ch 186, §7106, 10201; 90 Acts, ch 1233, §36

602.6107 Judicial districts.

For all judicial purposes except as provided in section 602.6109, the state is divided into eight judicial districts as follows:

1. The first district consists of the counties of Dubuque, Delaware, Clayton, Allamakee, Winneshek, Chickasaw, Fayette, Buchanan, Black Hawk, Howard, and Grundy.

2. The second district consists of the counties of Mitchell, Floyd, Butler, Bremer, Worth, Winnebago, Hancock, Cerro Gordo, Franklin, Wright, Humboldt, Pocahontas, Sac, Calhoun, Webster, Hamilton, Carroll, Greene, Hardin, Marshall, Story, and Boone.

3. The third district consists of the counties of Kossuth, Emmet, Dickinson, Osceola, Lyon, O'Brien, Clay, Palo Alto, Cherokee, Buena Vista, Plymouth, Sioux, Woodbury, Ida, Monona, and Crawford.

4. The fourth district consists of the counties of Harrison, Shelby, Audubon, Pottawattamie, Cass, Mills, Montgomery, Fremont, and Page.

5. The fifth district consists of the counties of Guthrie, Dallas, Polk, Jasper, Madison, Warren, Marion, Adair, Adams, Union, Clarke, Lucas, Taylor, Ringgold, Decatur, and Wayne.

6. The sixth district consists of the counties of Tama, Benton, Linn, Jones, Iowa, and Johnson.

7. The seventh district consists of the counties of Jackson, Clinton, Cedar, Scott, and Muscatine.

8. The eighth district consists of the counties of Poweshiek, Mahaska, Keokuk, Washington, Monroe, Wapello, Jefferson, Appanoose, Davis, Van Buren, Louisa, Henry, Des Moines, and Lee.

83 Acts, ch 186, §7107, 10201

602.6108 Reassignment of personnel.

The chief justice of the supreme court shall assign judicial officers and court employees from one judicial district to another, on a continuing basis if need be, in order to handle the judicial business in all districts promptly and efficiently at all times.

83 Acts, ch 186, §7108, 10201

602.6109 Judicial election districts.

1. Judicial election districts are established for purposes of nomination, appointment, and retention of district judges and for other purposes specifically provided by law.

2. The judicial election districts are as follows:

a. Election district 1A consists of the counties of Dubuque, Delaware, Clayton, Allamakee, and Winneshek.

b. Election district 1B consists of the counties of Chickasaw, Fayette, Buchanan, Black Hawk, Howard, and Grundy.

c. Election district 2A consists of the counties of Mitchell, Floyd, Butler, Bremer, Worth, Winnebago, Hancock, Cerro Gordo, and Franklin.

d. Election district 2B consists of the counties of Wright, Humboldt, Pocahontas, Sac, Calhoun, Webster, Hamilton, Carroll, Greene, Hardin, Marshall, Story, and Boone.

e. Election district 3A consists of the counties of Kossuth, Emmet, Dickinson, Osceola, Lyon, O'Brien, Clay, Palo Alto, Cherokee, and Buena Vista.

f. Election district 3B consists of the counties of Plymouth, Sioux, Woodbury, Ida, Monona, and Crawford.

g. Election district 4 consists of the fourth judicial district, as established by section 602.6107.

h. Election district 5A consists of the counties of Guthrie, Dallas, Jasper, Madison, Warren, and Marion.

i. Election district 5B consists of the counties of Adair, Adams, Union, Clarke, Lucas, Taylor, Ringgold, Decatur, and Wayne.

j. Election district 5C consists of Polk county.

k. Election district 6 consists of the sixth judicial district, as established by section 602.6107.

l. Election district 7 consists of the seventh judicial district, as established by section 602.6107.

m. Election district 8A consists of the counties of Poweshiek, Mahaska, Keokuk, Washington, Monroe, Wapello, Jefferson, Appanoose, Davis, and Van Buren.

n. Election district 8B consists of the counties of Louisa, Henry, Des Moines, and Lee.

83 Acts, ch 186, §7109, 10201

602.6110 Peer review court.

1. A peer review court may be established in each judicial district to divert certain juvenile offenders from the criminal or juvenile justice systems. The court shall consist of a qualified adult to act as judge while the duties of prosecutor, de-

fense counsel, court attendant, clerk, and jury shall be performed by persons twelve through seventeen years of age.

2. The jurisdiction of the peer review court extends to those persons ten through seventeen years of age who have committed misdemeanor offenses, or delinquent acts which would be misdemeanor offenses if committed by an adult, who have admitted involvement in the misdemeanor or delinquent act, and who meet the criteria established for entering into an informal adjustment agreement for those offenses. Those persons may elect to appear before the peer review court for a determination of the terms and conditions of the informal adjustment or may elect to proceed with the informal or formal procedures established in chapter 232.

3. The peer review court shall not determine guilt or innocence and any statements or admissions made by the person before the peer review court are not admissible in any formal proceedings involving the same person. The peer review court shall only determine the terms and conditions of the informal adjustment for the offense. The terms and conditions may consist of fines, restrictions for damages, attendance at treatment programs, or community service work or any combination of these penalties as appropriate to the offense or delinquent act committed. A person appearing before the peer review court may also be required to serve as a juror on the court as a part of the person's sentence.

4. The chief judge of each judicial district which establishes a peer review court shall appoint a peer review court advisory board. The advisory board shall adopt rules for the peer review court advisory program, shall appoint persons to serve on the peer review court, and shall supervise the expenditure of funds appropriated to the program. Rules adopted shall include procedures which are designed to eliminate the influence of prejudice and racial and economic discrimination in the procedures and decisions of the peer review court.

89 Acts, ch 262, §1; 97 Acts, ch 126, §44; 98 Acts, ch 1100, §77

602.6111 Identification numbers on documents filed with the clerk.

1. Each petition or complaint, answer, appearance, first motion, or any document filed with the clerk of the district court which brings new parties into an action shall bear a personal identification number. The personal identification number shall be the employer identification number or the social security number of each separate party. If an individual party's driver's license lists a distinguishing number other than the party's social security number, the document filed with the clerk of the district court shall also contain the distinguishing number from the party's driver's license.

2. The clerk of the district court shall affix the identification numbers required pursuant to subsection 1 to any judgment, sentence, dismissal, or other paper finally disposing of an action.

3. The requirements of subsection 1 do not apply to actions filed by the child support recovery unit established pursuant to chapter 252B. For actions filed by the child support recovery unit, the clerk of the district court shall generate an alternative personal identification number if the party's social security number or driver's license number is not provided or available through other sources.

4. Beginning October 1, 1998, a party, except the child support recovery unit, filing a petition, complaint, answer, appearance, first motion, or any document with the clerk of district court to establish or modify an order for child support under chapter 236, 252A, 252K, 598, or 600B shall provide the clerk of the district court with the social security number of the child. The clerk of the district court shall keep the social security number of the child confidential, except the clerk shall provide the number to the child support recovery unit to be included in the records of the state case registry created under section 252B.24.

93 Acts, ch 171, §18; 94 Acts, ch 1171, §49; 98 Acts, ch 1170, §17

PART 2

DISTRICT JUDGES

602.6201 Office of district judge — apportionment.

1. District judges shall be nominated and appointed and shall stand for retention in office as provided in chapter 46. District judges shall qualify for office as provided in chapter 63.

2. A district judge must be a resident of the judicial election district in which appointed and retained. Subject to the provision for reassignment of judges under section 602.6108, a district judge shall serve in the district of the judge's residence while in office, regardless of the number of judgeships to which the district is entitled under subsection 3.

3. a. A judicial election district containing a city of fifty thousand or more population is entitled to the number of judgeships equal to the average, rounded to the nearest whole number, of the following two quotients, each rounded to the nearest hundredth:

- (1) The combined civil and criminal filings in the election district divided by five hundred fifty.
- (2) The election district's population divided by forty thousand.

However, the seat of government is entitled to one additional judgeship.

b. All other judicial election districts are entitled to the number of judgeships equal to the average, rounded to the nearest whole number, of the

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TO: Senators Angelo, Fraise and Redfern
Representatives Horbach, Jacobs and Bell

FROM: Jim Carney

DATE: February 9, 2002

RE: SSB 3097 and HSB 628 Judicial Branch Appropriations

The Governor's bill for Judicial Appropriations has traditionally not been filed. SSB 3097 and HSB 628 are the Governor's companion budget bills for the Judicial Branch. The Iowa State Bar Association has a very significant interest in this year's proposal.

First and foremost, section 1 line 18 provides for fiscal year 2003 appropriations in the amount of \$114 million. This is basically a status quo budget and is truly a bare bones request by the Judicial Branch. The Iowa State Bar Association urges the legislature not to cut the court's budget request for fiscal 2003.

Page 2 paragraph 6 refers to the clerks of the district court. The ISBA supports a full time clerk with full office hours. The question of whether the clerks need to be comparable work employees is one that the legislature may want to examine for budgetary purposes and fiscal savings. See attached position paper.

In our discussions with the court's representative, it is our understanding that section 4 lines 10 through 28 should be deleted. The Judicial Branch should not be supplementing the Executive Branch technology needs. As you know, the Judicial Branch has lost technology monies in the past.

THE IOWA STATE BAR ASSOCIATION

Senators Angelo, Fraise and Redfern
Representatives Horbach, Jacobs and Bell
February 9, 2002
Page 2 of 2

Section 5 provides for an increase in the filing fees for district court actions from \$80 to \$100, and small claims, from \$30 to \$40. The Governor has included these increased revenues from filing fees in his budget. The ISBA discussed this issue with the Governor's Office and legislative leaders and is supportive of increasing the filing fees if and only if there are no further cuts to the Judicial Branch budget for fiscal 2002 and there is full funding of the Judicial Branch in 2003. The filing fee increases should more than cover any general revenue shortfall on behalf of the court system. We have attached a calculation of the fiscal impact of increasing filing fees and historical information regarding filing fees. Sections 5 and 6 should take effect immediately so that increased revenues come on line immediately.

We have attached the ISBA's position paper in support of full funding for the Judicial Branch. The ISBA, on behalf of its over 7,000 members, urges that you support full funding of the Judicial Branch.

If you have any questions please let us know, as we will be happy to provide you with additional information.

Jim Carney-689-3189, Jenny Tyler-238-2750, Troy Skinner-707-8848

JWC/rms
Attachments

cc: Judiciary Committee Members
Justice Appropriations Committee Members

The Iowa State Bar

Position Papers



JUDICIAL BRANCH BUDGET

##

ISSUE - How should the state fund the operation of Iowa's Judicial Branch?

ISBA POSITION - The Iowa State Bar Association supports full and adequate funding of the operation of the Judicial Branch. The ISBA also supports development of a system of determining the annual appropriation for the Judicial Branch which would recognize the Judicial Branch's status as a co-equal separate branch of government, and removes the Judicial Branch from competition for funding with other programs/agencies, such as the Department of Corrections and the Attorney General. The Judicial Branch should be one of the top priorities of the appropriations process.

Each year, the legislature makes appropriations to the Department of Justice, the Department of Corrections, the Department of Inspections and Appeals, the Department of Public Safety, and the Judicial Branch, within one budget bill commonly known as the Justice System Appropriations bill.

Typically, less than 25% of the justice system's appropriations goes to the Judicial Branch to pay for operations of the Court system throughout Iowa's ninety-nine (99) counties. In other words, only 2% of the State's total annual budget is dedicated to fund the operation of Iowa's Court system.

In 2001, the appropriation for the Judicial Branch was approximately \$112 million. The court is expected to request a status quo appropriation budget in the 2002 legislative session. The Judicial Branch is close to being self-funded. Each year, the Judicial Branch deposits moneys collected into the state general fund which equates to approximately 65% of the Court's budget. (In fiscal year 2001, the court collected approximately 74.3 million in fines and fees).

Full and adequate funding of Iowa's Judicial Branch is essential in order to provide timely and efficient justice to the citizens of Iowa. Providing justice to Iowa citizens involves more than simply adjudicating cases. Currently, the Judicial Branch oversees and administers a Court system that employs approximately 1,900 persons, and provides services at 147 locations within the State. The Supreme Court also has responsibility for rule making in the areas of civil and criminal procedure, evidence, appellate procedure, probate, involuntary hospitalization of the mentally ill, involuntary commitment or treatment of substance abusers, District Court practice, professional conduct, and

admission to the Bar. The Court controls the licensing of lawyers and oversees the Client Security and Disciplinary Fund, the Continuing Legal Education Commission, and the Interest in Lawyers Trust Accounts Program.

Recently, the Iowa Supreme Court established a Commission on Planning for the 21st Century, and developed a plan to bring the operation of Iowa's Courts into the 21st Century so that justice can be administered in a modern and efficient manner. Part of the work of the Commission on Planning involved a public opinion survey. This survey indicated that 65% of respondents approved of the job that Iowa Courts are doing. However, slightly less than half of the survey respondents said that they trust the Courts. While most thought that they would be treated fairly by the system, they also perceived the Courts as giving preferential treatment to the rich, powerful, and to celebrities.

Cutting the Judicial Branch budget, closing clerk's offices and other forms of reduced services would add to the public's perception of preferential treatment. Reduction of court services hurts citizens and would shift additional costs onto taxpayers. The 4.3% reduction to the Judicial Branch budget during the current fiscal year resulted in a \$5 million loss of funds for the courts.

In order to implement the Court's plan for the 21st Century, full and adequate funding of the Judicial Branch budget request is essential.



FISCAL IMPACT OF INCREASING FILING FEES

Fiscal impact of increasing civil filing fees from \$80.00 to \$100.00 and small claims from \$30.00 to \$40.00 is:

Civil Filings 68,000 x \$20.00 = \$1,360,000.00

Small Claims 79,000 x \$10.00 = \$ 790,000.00

Total Increase \$2,150,000.00

The last increase in civil filing fees was from \$75.00 to \$80.00 in 1994. The last increase in small claims filing fees was from \$17.00 to \$30.00 in 1991. The filing fees are deposited in the general fund.

In FY 2001, the Judicial Branch generated \$74.9 million in revenue.

Of that, \$9.5 million goes to the Prison Infrastructure Fund, \$1.0 million to the Court Technology and Modernization Fund, and \$4.0 to the Enhanced Court Technology Fund. The remaining \$60.4 million is deposited into the General Fund.

Court fees are set by statute in Sections 602.8105 through 8108, Code of Iowa. Fees collected by the District Courts are deposited into the General Fund.

Filing fees for civil actions in Federal Court are \$150.00

Iowa jury fee is \$10.00 per jury. Last year there were 1,082 jury trials in Iowa as per Bill O'Brien, Supreme Court Administrator. Total revenue was \$10,820.00. This does not even cover the cost of postage. Several states have \$100+ jury demand fees.

\$40.00 increase = \$40 x 1,082 = \$43,280.00

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BOARD OF GOVERNORS TAKES POSITIONS ON ISSUES RELATED TO THE COURTS

On January 23 the Iowa State Bar Association held a special meeting of the Board of Governors to consider issues raised by the recently tabled plan to reorganize Iowa courts, the budget difficulties facing the judicial branch, and matters related to pre-filed bill requests by the Court. What follows is a summary of the positions adopted by the Board of Governors. - Joe Holland

Clerk of Court Offices and Duties

In response to a proposal to amend Code section 602.1215 to eliminate the requirement of one Clerk of Court in each county, a motion was passed to support a full time clerk of court's office in every county, but to support a study to determine whether there should be a Clerk of Court in every county.

In response to a proposal to amend Code section 602.1215 to provide that the Clerks of Court shall be appointed by the district court administrator subject to approval of the Chief Judge of the district, a motion was passed to retain the present appointment process until a comprehensive study is done.

In response to a proposal to amend Code section 602.1215 and eliminate the requirement that the Clerk be a resident of the county, but require that the Clerk be a resident of Iowa, a motion was passed to wait for a comprehensive study before any action is taken.

Court Administration

In response to a proposal to amend Code section 602.6107 by replacing the section with language that authorizes the Supreme Court to establish the organizational structure of the judicial districts, including the number of districts and district boundaries, while still maintaining a clerk of court office in each county the following resolution was adopted by the Board of Governors:

The Iowa State Bar Association supports full access to the courts by all Iowans. Any proposal to change the current law should be studied closely both as to delivery of services and the total cost (which is presently borne by both State and County budgets) of any change to the taxpayers to determine any overall savings in personnel and physical plant.

Historically and legally the judiciary is a separate and co-equal branch of government, with Constitutional and statutory mandates. We believe the Legislature must not abrogate its Constitutional duty to adequately fund the judiciary to enable it to perform those mandates.

The determination of Court district boundaries for service delivery and/or trial center locations constitute a political decision that is best left to the people's elected representatives in the Legislature. Pursuant to the Constitutional requirement of separation of powers, the Legislature should not delegate its Constitutional duty to make such geographic and political determinations.

In response to a proposal to amend Code section 602.1217 to provide that the chief juvenile court officer be appointed by the district court administrator subject to the approval of the chief Judge, a motion was passed, as part of the motion relating to appointment of Clerks by the district court administrator, to retain the present appointment process until a comprehensive study is done.

Judges

In response to a proposal to allow the Court to delay filling new or vacant judgeships (including magistrates) for budget reasons, a motion to oppose this amendment was passed.

Filing Fees

Legislative Counsel reported to the Board of Governors that listed in the State of Iowa Estimated Condition of the General Fund Financial Summary was a statement that read: **Revenue proposals, Filing Fees: Raise more than \$2 million annually in court fees for small claims and civil actions.** A motion was passed to support a fee increase only if there is a commitment back from the Legislature that the Legislature will not cut the Judicial Branch budget.

Miscellaneous

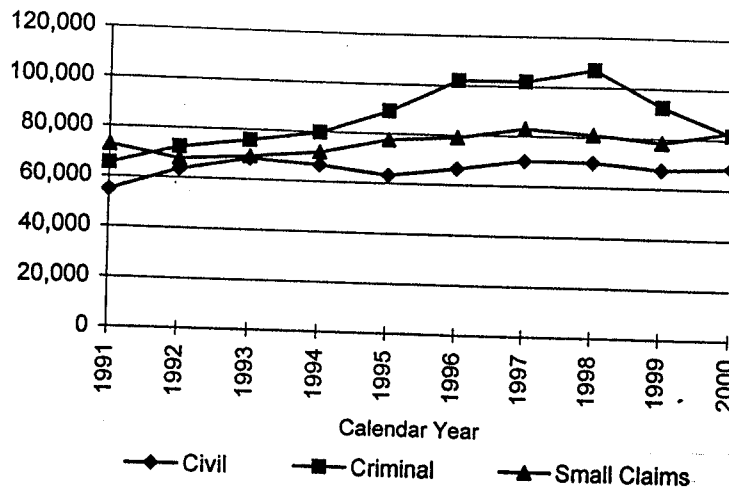
A proposal has been made to amend Code section 602.8108(4) to eliminate the allocation of money for alternative dispute resolution and domestic abuse, and to eliminate the prohibition against using the funds for ICIS. Roger Stetson, Chair of the ADR Section, commented upon the proposed changes. Stetson indicated that the ADR program in Polk County would not be affected because it is currently self funded but that some of the smaller ADR programs around the State that in past years have received ADR grants from the court could be negatively impacted. A discussion was held as to whether the Bar Association should take a position to encourage the courts to keep the funding for ADR in their budget. A motion to stay neutral on this legislative item was passed.

A proposal has been made to amend Code sections 633.480 and 633.481 to relieve the clerk of responsibility of preparing change of title documents and to require fiduciaries to prepare and file "Court Officer deeds" with the County Recorder. This amendment was discussed but no action was taken.

A proposal has been made to eliminate the participation of foster care review board in delinquency proceedings. This proposal was discussed but no action was taken.



FILINGS IN IOWA DISTRICT COURT 1991 - 2000



- Between 1991 and 2000, civil filings and criminal filings increased by 25.2% and 25.0%, respectively.
- Small Claims increased by 14.6% during the same period.
- In 1991, a total of 101 District Court Judges managed 120,073 new civil and criminal case filings. Each District Court Judge averaged 1,188 filings. However, by 2000, there were a total of 116 District Court Judges managing 150,215 new civil and criminal case filings. The average number of case filings for each District Court Judge was 1,294.

Calendar Year	Civil	Criminal	Small Claims
1991	54,602	65,471	72,904
1992	63,381	72,227	67,586
1993	68,244	75,844	69,283
1994	66,630	79,764	71,771
1995	63,225	89,156	77,506
1996	66,273	102,161	79,129
1997	70,202	102,125	83,047
1998	69,827	107,068	81,018
1999	67,310	92,465	78,221
2000	68,360	81,855	83,528

Notes:

- 1) Civil filings include civil cases over \$4,000 and small claims on appeal.
- 2) Criminal filings include indictable criminal cases (serious and aggravated misdemeanors and felonies) and simple misdemeanor appeals.

Source: Judicial Branch